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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,816	03/09/2004	Leland N. Saunders	RAP04 P-644A	2060
28101	7590	01/04/2006	EXAMINER	
VAN DYKE, GARDNER, LINN AND BURKHART, LLP 2851 CHARLEVOIX DRIVE, S.E. P.O. BOX 888695 GRAND RAPIDS, MI 49588-8695			GREENHUT, CHARLES N	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/796,816		SAUNDERS ET AL.	
	Examiner		Art Unit	
	Charles N. Greenhut		3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/3/04</u> . | 6) <input type="checkbox"/> Other: ____ |

I. Claim Objections

1. Claim 11 is objected to because “indexing group of totes” in line 1 should read, -indexing said group of totes-

II. Claim Rejections - 35 USC § 112

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 5, 6, 13, 37, 38, and 48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1.1. The term “said indicating” in claims 5, 6, 37 and 38 is ambiguous because it could refer to indicating a tote or indicating a product as recited in claim 1.

1.2. The term “the groups of totes” in lines 2-3 of claim 11 lacks antecedent basis. *Note plurality of “groups”*

1.3. Claim 13, as written, depending from claim 11, would lack antecedent basis for the terms “the downstream picking bay”, “the operator”, and “the upstream picking bay.” *Examiner assumes, for purposes of examination on the merits, that claim 13 should properly depend from claim 12 in order to provide proper antecedent basis for these terms.*

1.4. Claim 48 recites the term, “said providing a plurality of toes” in line 1. There is insufficient antecedent basis for this limitation in the claim.

III. Claim Rejections - 35 USC § 102

Art Unit: 3652

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim(s) 1-52 is/are rejected under 35 U.S.C. 102(b) as being anticipated by SPINDLER (US 5,509,538 A).

1.1. With respect to claim 1, SPINDLER discloses arranging products in first and second rows (12), aligning groups of totes (28), indicating a tote (42), indicating products to be picked for the tote (40), picking and placing the indicated products, and indexing the totes (Fig. 1).

1.2. With respect to claim 2, SPINDLER additionally discloses conveyors (24)/(26).

1.3. With respect to claim 3, SPINDLER additionally discloses automatically driving the conveyor (24).

1.4. With respect to claim 4, SPINDLER additionally discloses flow racks having inlet (14) and discharge (18) side.

1.5. With respect to claim 5, SPINDLER additionally discloses providing and actuating lights (LEDs on 34).

1.6. With respect to claim 6, SPINDLER additionally discloses providing a designated light (40).

1.7. With respect to claim 7, SPINDLER additionally discloses an indicator for each tote (34)

- 1.8. With respect to claim 8, SPINDLER additionally discloses providing a light (LEDs on 34).
- 1.9. With respect to claim 9, SPINDLER additionally discloses providing a light at picking locations (LEDs on 34).
- 1.10. With respect to claim 10, SPINDLER additionally discloses aligning a group of totes with a respective picking location (Fig. 1).
- 1.11. With respect to claim 11, SPINDLER additionally discloses indexing a group of totes (Fig. 1).
- 1.12. With respect to claim 12, SPINDLER discloses providing products in a first and second row of picking bays (12) having an induct (14) and discharge (18) side, an isle between the rows for an operator (20), aligning a first and second groups of totes with an upstream picking bay (Fig. 1), indicating a product to be picked (40), indexing to continue picking (Fig. 1).
- 1.13. With respect to claim 13, SPINDER additionally discloses a third group of totes.
- 1.14. With respect to claim 14, SPINDER additionally discloses indexing and aligning the third group.
- 1.15. With respect to claim 15, SPINDLER additionally discloses first and second conveyors (24).
- 1.16. With respect to claim 16, SPINDLER additionally discloses flow racks (12)
- 1.17. With respect to claim 17, SPINDLER additionally discloses lights (at 34).
- 1.18. With respect to claim 18, SPINDLER additionally discloses actuating the lights when a product is to be picked (Fig. 2).

- 1.19. With respect to claim 19, SPINDLER additionally discloses a group of three totes (Fig. 1).
- 1.20. With respect to claim 20, SPINDLER additionally discloses a control system (32).
- 1.21. With respect to claim 21, SPINDLER additionally discloses driving the conveyors with the control system (25).
- 1.22. With respect to claim 22, SPINDLER additionally discloses detecting when a product has been picked (Col 9).
- 1.23. With respect to claim 23, SPINDLER additionally discloses an actuator (Col. 9).
- 1.24. With respect to claim 24, SPINDLER discloses a means for supporting products (12), means for aligning totes (24), means for identifying each tote (34), means for indicating which products are to be picked (40), means for indexing (24), and a control system (32)/(25).
- 1.25. With respect to claim 25, SPINDLER additionally discloses racks (12)
- 1.26. With respect to claim 26, SPINDLER additionally discloses an induct (14) and discharge (18) side.
- 1.27. With respect to claim 27, SPINDLER additionally discloses first and second conveyors (24).
- 1.28. With respect to claim 28, SPINDLER additionally discloses selectively driven conveyors (24).
- 1.29. With respect to claim 29, SPINDLER additionally discloses lights (at 34).
- 1.30. With respect to claim 30, SPINDLER discloses a plurality of racks (12), plurality of totes (28), first and second conveyor (24), and controller (32)/(25).


- 1.31. With respect to claim 31, SPINDLER additionally discloses induct (14) and discharge (18) sides.
- 1.32. With respect to claim 32, SPINDLER additionally discloses indicators (Fig. 2).
- 1.33. With respect to claim 33, SPINDLER additionally discloses lights (at 34).
- 1.34. With respect to claim 34, SPINDLER additionally discloses displays identifying a tote (44).
- 1.35. With respect to claim 35, SPINDLER additionally discloses a tote identifier (Col. 8).
- 1.36. With respect to claim 36, SPINDLER additionally discloses a tote indicator (Col. 8).
- 1.37. With respect to claim 37, SPINDLER additionally discloses indicators (34) at the picking locations (18).
- 1.38. With respect to claim 38, SPINDLER additionally discloses indicators (34) at the conveyors (24).
- 1.39. With respect to claim 39, SPINDLER additionally discloses the indicator displaying a mode of operation (e.g., pick, put, split, etc...)
- 1.40. With respect to claim 40, SPINDLER additionally discloses the control system detecting when a product is picked (Col 9).
- 1.41. With respect to claim 41, SPINDLER discloses providing products in a first and second row of picking bays (12) having an induct (14) and discharge (18) side, an aisle for operator (20) access, aligning first and second totes (Fig. 1), indicating products to be picked for the respective totes (Fig. 2), and indexing (Fig. 1).

- 1.42. With respect to claim 42, SPINDLER additionally discloses indicating products to be picked after indexing.
- 1.43. With respect to claim 43, SPINDLER additionally discloses indexing a third tote (Fig. 1).
- 1.44. With respect to claim 44, SPINDLER additionally discloses first and second conveyors (24).
- 1.45. With respect to claim 45, SPINDLER additionally discloses flow racks having induct (14) and discharge (18) sides.
- 1.46. With respect to claim 46, SPINDLER additionally discloses actuating lights (at 34).
- 1.47. With respect to claim 47, SPINDLER additionally discloses a light at each picking location (Fig. 1).
- 1.48. With respect to claim 48, SPINDLER additionally discloses groups of totes (Fig. 1).
- 1.49. With respect to claim 49, SPINDLER additionally discloses indexing a group (Fig. 1).
- 1.50. With respect to claim 50, SPINDLER additionally discloses a control system (32)/(25).
- 1.51. With respect to claim 51, SPINDLER additionally discloses detecting when a product has been picked (Col. 9).
- 1.52. With respect to claim 52, SPINDLER additionally discloses an actuator (e.g., “done” button)

IV. Conclusion

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.
3. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CG


EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600